

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ANDREW H. STEVENS, and  
MELANIE COPENHAVER,**

**Plaintiffs,**

**V.**

**CITY OF COLUMBUS, OHIO, and  
TIMOTHY J. NOLL**

*In his official capacity as Code Enforcement  
Officer of the City of Columbus, OH*

**Defendant.**

[illegible]

**Case No. 2:20-cv-1230**

**Chief Judge Algenon L. Marbley**

## Chief Magistrate Judge Deavers

### OPINION & ORDER

This matter is before the Court on Plaintiffs’ Motion for Partial Consolidation of the Motion for Preliminary Injunction with Trial on the Merits as to Declaratory and Injunctive Relief Only. (ECF No. 12). Defendants oppose Plaintiffs’ Motion. (ECF No. 15 at 9).


Plaintiffs wish to consolidate the preliminary injunction hearing set for June 22, 2020 with trial on the merits pursuant to Federal Rule of Civil Procedure 65(a)(2) because they argue that the issues before the Court are primarily issues of law and it would conserve resources to adjudicate this issue once at the preliminary injunction stage. Defendants oppose Plaintiffs' request to consolidate on the basis that they "have serious concerns about being able to adequately prepare witnesses and obtain all needed exhibits for trial" in light of the current pandemic. (ECF No. 15 at 9).

The Federal Rules provide that “[b]efore or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the

hearing.” Fed. R. Civ. P. 65(a)(2). Where the issues to be considered are primarily legal and the underlying facts are not contested, a Court is permitted to consider the issues on the merits at the preliminary injunction stage. *See Maclean Const. Co. v. U.S. Env'tl. Prot. Agency*, 432 F. Supp. 242, 248 (W.D. Mich. 1976) (consolidating preliminary injunction hearing with trial on the merits where “the underlying facts are uncontested . . . and the issue is purely a legal one”); *see also Ctr. for Powell Crossing, LLC v. City of Powell, Ohio*, 173 F. Supp. 3d 639, 652 (S.D. Ohio 2016) (granting request for consolidation where parties agreed that facts were not in dispute and sole legal issue was amenable to resolution on the briefs).

This Court determines that consolidation of the preliminary injunction hearing with trial on the merits is appropriate since the facts of the case are not in dispute and the issues to be decided are primarily legal in nature. For these reasons, Plaintiffs’ motion to partially consolidate the preliminary injunction hearing with trial on the merits is **GRANTED**. (ECF No. 12).

**IT IS SO ORDERED.**

  
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**ALGENON L. MARBLEY**  
**CHIEF UNITED STATES DISTRICT JUDGE**

**DATED: June 15, 2020**